

**STATE OF MICHIGAN**

**BEFORE THE JUDICIAL TENURE COMMISSION**

COMPLAINT AGAINST:

**HON. WARFIELD MOORE, JR.**

Docket No. \_\_\_\_\_

Judge, Wayne County Circuit Court

Civil Division

2 Woodward Ave., Room 921

Detroit, Michigan 48226

**FORMAL COMPLAINT NO. 69**

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**COMPLAINT**

Pursuant to MCR 9.208(A), the Judicial Tenure Commission of the State of Michigan ("Commission") files this Complaint against the Honorable Warfield Moore, Jr. ("Respondent"). Respondent is now and was at all material times a judge of the Wayne County Circuit Court, Civil Division. This action is taken pursuant to the authority of the Commission under Article 6, Section 30, of the Michigan Constitution of 1963, as amended, and MCR 9.200 *et seq.* The filing of this Complaint has been authorized and directed by resolution of the Commission.

The actions that are the subject of this formal complaint occurred while Formal Complaint No. 58, also against Respondent, was pending. The Commission submitted its decision regarding misconduct, and recommendation for discipline, to the Michigan Supreme Court for its review and consideration in October 2000, and oral argument before the Court occurred on March 8, 2001.

At that hearing, which resulted in Respondent's six-month suspension without pay, 464 Mich 98 (2001), Respondent's attorney referred to Respondent's transfer from the criminal division to the civil division of the Wayne County

Circuit Court on June 8, 2000. Counsel stated to the Court that Respondent's years on the criminal docket were a (if not "the") stimulus for the behavior that led to his suspension. The acts described below, which occurred after Respondent was reassigned to the civil division, belie that contention.

Respondent is hereby charged with acts of judicial misconduct as follows:

1. Respondent presided over the trial in *Boyd v Charter County of Wayne, et al.*, Third Judicial Circuit Court Case No. 98-814501-CZ, which took place over several days between August 15 and August 31, 2000.

2. On August 15, 2000, Respondent addressed Jamil Akhtar, an attorney for one of the plaintiffs, with a raised voice when rejecting the request for his disqualification and creating the appearance that Respondent was angry with Mr. Akhtar.

3. When Mr. Akhtar was arguing the motion, the tone of Respondent's voice compelled him to state: "Your Honor, please don't be mad at me." (*Boyd v Charter County of Wayne, et al.*, August 15, 2000, Tr. p. 63, Exhibit A).

4. On August 15, 2000, when Respondent was conducting *voir dire*, and apparently were attempting to describe sexual harassment, he stated:

Any of you think you have ever witnessed anything that you thought was a downright sexual, of a sexual nature to the point where you thought it was harassment? I mean, you know, people, we all have - - I mean, I see

guys dancing with their sweethearts and based on the rubbing up, I say, man, now, that's sexual. But she ain't complaining [sic] and they seem to know each other, so, you know, hey, if that's the way they want to - - you know, if he wants to dance and grab her buttocks, that's - - I guess she doesn't mind because he's, you know, she doesn't seem to - - you know. But when you do that, I mean, when people touch certain parts of another person's anatomy, to me that is a sexual act. Do you understand what I'm saying? Is it - - would you feel the same way? Any of you feel differently if a man with his wife or girlfriend, I mean, and I think - - I mean, have you seen that? I mean, a guy is dancing, slow dancing, and he drops his hand right down to the buttocks. I always wonder. And he's grabbing under the buttocks of the woman. I see that as a sexual act. Am I the only one that sees that or do you see that, too? Any of you don't - - anyone that has not seen that tell me.

\* \* \*

I mean, I've seen - - I've been to some of these parties, boy, and I mean, they're getting down and some of these women getting down. I mean, you talk about sexual acts. I mean, you know, they can, all by themselves, not with another person, you know, and that gyration - - you laugh.

\* \* \*

I saw someone doing the dog; have you ever seen that? You know that dance there what they call the dog - - Mr. Musicology [referring to a music major who was a prospective juror]? I ask of you because you're into music - - another juror left us, okay. Another juror has left. And ma'am, I mean, phew, you talking about - - I saw it at a wedding reception and I said, now, that it is not what ought to be at this wedding reception. I mean, this lady was - - and this lady and this guy was doing

what they called the dog. Isn't that a dance called the dog; is there? Does anyone know that dance?  
(*Boyd v Charter County of Wayne, et al.*, August 15, 2000, Tr. pp. 158-160, Exhibit A)

5. During the proceedings, Respondent made the following statement directed at the Judicial Tenure Commission:

Hey, listen, I'll, I'll be here until the Judicial Tenure Commission removes me. And believe me - - don't laugh, that's what they're trying to do, but that's okay.

(*Boyd v Charter County of Wayne, et al.*, August 16, 2000, Tr. p. 108, Exhibit B)

6. Respondent also made the following inquiry to a prospective juror made during jury selection:

Are you kind of a woman's libber, you know, you go girl? I mean, you listen to Oprah everyday and - -

(*Boyd v Charter County of Wayne, et al.*, August 16, 2000, Tr. p. 179, Exhibit B)

7. The following statements made by Respondent during *voir dire* reflect insensitivity toward racial issues:

THE COURT (to a prospective juror): Let me ask you something and I hope you're not offended by it. You're a white woman; right?

PROSPECTIVE JUROR KIGER: Uh-huh.

THE COURT: White women in America have been known to be racist. Some white women don't like black

folk, don't like Latinos, don't like this, don't like that; would you agree with that?

PROSPECTIVE JUROR KIGER: Yes; and the other way around.

THE COURT: Surely.

PROSPECTIVE JUROR KIGER: Okay.

THE COURT: But I'm using you and that's why I asked if - - you're not offended. If you are offended I won't.

*(Boyd v Charter County of Wayne, et al., August 16, 2000, Tr. pp. 183-184, Exhibit B)*

8. On August 22, 2000, Respondent made the following statements outside of the presence of the jury, including asking Mr. Akhtar a series of questions and then refusing to permit him to answer any:

THE COURT: Who did - - she went on her own sir. She went for herself. She was seeking an employment, she was seeking a raise, was she not sir? She was seeking reclassification, was she not?

MR. AKHTAR: That's three questions you have asked, now may I answer them?

THE COURT: No. Thank you. I've had enough of that. I have no answer to any of that. Come on. Come on, now the folks with the money have come - - we've waited long enough.

*(Boyd v Charter County of Wayne, et al., August 22, 2000, Tr. pp. 144-145, Exhibit C)*

9. Respondent also made excessive interjection into the proceedings and conducted extensive questioning of witnesses on August 23, 2000, at pages 20-22, 40-42 and 53-55 of the transcript (Exhibit D).

10. Respondent was also assigned to *Caise v Adamo Demolition and City of Detroit*, Third Circuit Court Case No. 00-017911-CZ, until he disqualified himself on May 18, 2001.

11. Attorney Corrine Shoop was the Grievant in Grievance No. 95-7875, which was part of Formal Complaint No. 58.

12. Ms. Shoop testified at the formal hearing held before the Commission in Formal Complaint No. 58 that Respondent stated to a prosecuting attorney that the only reason the prosecuting attorney wanted the testimony of a female witness to continue was that the witness was not wearing a bra.

13. The Commission issued a decision and recommendation to the Michigan Supreme Court that the statement attributed to Respondent constituted misconduct.

14. The Commission's Decision and Recommendation was pending before the Supreme Court on May 18, 2001, the date of a hearing on several motions in *Caise v Adamo Demolition*.

15. Ms. Shoop appeared at the hearing regarding a motion for Respondent's disqualification based on the occurrences relating to Formal

Complaint No. 58, as she intended to file a motion to intervene on behalf of her client, an insurance company.

16. At the May 18 hearing, Respondent made the following statements to and concerning Ms. Shoop:

- a. “Ms. Shoop, you ain’t worthy of all the energy it would take for me to have a bias.”

(*Caise v Adamo Demolition*, Tr. p. 7, Exhibit E)

- b. You, ma’am, ain’t worth my bias. And what I mean by that, ma’am, there is nothing important or significant about you or what you have said that I said that would cause me -- you have said very little to me about things that I’ve done.

\* \* \*

Ma’am, you’re not worth it. I don’t care whether I disqualify myself or not. As a matter of fact, I am very happy to disqualify myself in this case because, you know, one case is like another. But I just wanted you here, ma’am, because I don’t want you to go through life thinking that I dislike you or to think that what you did is so significant that it is worthy of my enmity because it’s not.

(*Caise v Adamo Demolition*, Tr. pp. 12-13, Exhibit E)

- c. Well, you do that before - - listen, from now on I’m free at last, free at last. Thank God Almighty [sic], I’m free at last. And Ms. Shoop, Ms. Shoop, you can argue with Ms. Shoop at another place - - watch what you say, though.

(*Caise v Adamo Demolition*, Tr. p. 18, Exhibit E)

17. On November 28, 2001, the Commission requested that Respondent provide his comment to the allegations in this grievance.

18. The Commission received his comment on January 18, 2002.

19. In that comment, Respondent provided a disingenuous attempt to explain what he meant in quoting the “free at last, free at last” language from Dr. Martin Luther King’s “I Have a Dream” speech. Respondent made the “free at last” comment on the very day he disqualified himself from the case involving Ms Shoop.

20. Respondent’s cavalier response that he “was perhaps experiencing an epiphany” suggests a certain smugness that Ms. Shoop would no longer be around him after the hearing or later in the case because of his disqualification.

21. Respondent’s suggestion in his comment that the race of an individual would have an effect on understanding his reasons for quoting the speech is unreasonable.

22. Respondent’s conduct, as described above, if true, constitutes:

- (a) Misconduct in office, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30 and MCR 9.205;
- (b) Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30, and MCR 9.205;



- (c) Failure to establish, maintain, enforce and personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Code of Judicial Conduct, Canon 1;
- (d) Irresponsible or improper conduct which erodes public confidence in the judiciary, in violation of the Code of Judicial Conduct, Canon 2A;
- (e) Conduct involving impropriety and the appearance of impropriety, in violation of the Code of Judicial Conduct, Canon 2A;
- (f) Failure to respect and observe the law and to conduct oneself at all times in a manner which would enhance the public's confidence in the integrity and impartiality of the judiciary, contrary to the Code of Judicial Conduct, Canon 2B;
- (g) Failure to treat every person fairly, with courtesy and respect, without regard to a person's race, gender, or other protected personal characteristic, contrary to the Code of Judicial Conduct, Canon 2B;
- (h) Excessive personalization of matters by failing to be patient, dignified, and courteous to litigants, lawyers and others with whom Respondent deals in an official capacity, in violation of the Code of Judicial Conduct, Canon 3A(3);
- (i) Undue interference, impatience, or participation in the examination of witnesses, in violation of the Code of Judicial Conduct, Canon 3A(8);
- (j) Failure to avoid a controversial manner or tone in addressing counsel, contrary to the Code of Judicial Conduct, Canon 3A(8);

- (k) Failure to avoid interruptions of counsel in their arguments, contrary to the Code of Judicial Conduct, Canon 3A(8);
- (l) Non-adherence to the usual and accepted methods of doing justice, in violation of the Code of Judicial Conduct, Canon 3A(9);
- (m) Failure to treat every person fairly, with courtesy and respect, without regard to a person's race, gender, or other protected personal characteristic, contrary to the Code of Judicial Conduct, Canon 3A(10);
- (n) Conduct which is prejudicial to the proper administration of justice, in violation of MCR 9.104(1);
- (o) Conduct which exposes the legal profession and courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); and
- (p) Conduct which is contrary to justice, ethics, honesty or good morals, in violation of MCR 9.104(3).

Pursuant to MCR 9.209, Respondent is advised that an original verified answer to the foregoing complaint, and nine copies thereof, must be filed with the Commission within 14 days after service upon Respondent of the complaint. Such answer shall be in a form similar to the answer in a civil action in a circuit court and shall contain a full and fair disclosure of all facts and circumstances pertaining to Respondent's alleged misconduct. Any willful concealment, misrepresentation, or failure to file such an answer and disclosure shall be additional grounds for disciplinary action under the complaint.

JUDICIAL TENURE COMMISSION  
STATE OF MICHIGAN

By: \_\_\_\_\_  
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